



New York State Board for Professional Medical Conduct

433 River Street, Suite 303 Troy, New York 12180-2299 • (518) 402-0863

Barbara A. DeBuono, M.D., M.P.H.
Commissioner of Health

Patrick F. Carone, M.D., M.P.H.
Chair
Ansel R. Marks, M.D., J.D.
Executive Secretary

April 16, 1997

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Stephen Berliner, M.D.
708 Brookview Drive
Elon College, North Carolina 27244

RE: License No. 138409

Dear Dr. Berliner:

Enclosed please find Order #BPMC 97-85 of the New York State Board for Professional Medical Conduct. This Order and any penalty provided therein goes into effect upon receipt of this letter or seven (7) days after the date of this letter, whichever is earlier.

If the penalty imposed by the Order is a surrender, revocation or suspension of this license, you are required to deliver to the Board the license and registration within five (5) days of receipt of the Order.

Board for Professional Medical Conduct
New York State Department of Health
Hedley Park Place, Suite 303
433 River Street
Troy, New York 12180

Sincerely,

Ansel R. Marks, M.D., J.D.
Executive Secretary
Board for Professional Medical Conduct

Enclosure

cc: Wilfred T. Friedman, Esq.
The Bar Building
36 West 44th Street
New York, New York 10036

Cindy M. Fascia, Esq.

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

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IN THE MATTER :
OF : ORDER
STEPHEN BERLINER, M.D. : BPMC #97-85

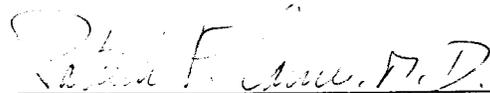
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Upon the Application of STEPHEN BERLINER, M.D. (Respondent) for Consent Order, which Application is made a part hereof, it is ORDERED, that the Application and the provisions thereof are hereby adopted and so ORDERED, and it is further

ORDERED, that this Order shall take effect as of the date of the personal service of this Order upon Respondent, upon receipt by Respondent of this Order via certified mail, or seven days after mailing of this Order by certified mail, whichever is earliest.

SO ORDERED,

DATED: April 12, 1997


Patrick F. Carone, M.D., M.P.H.
Chair
State Board for Professional
Medical Conduct

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

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IN THE MATTER : APPLICATION
OF : FOR
STEPHEN BERLINER, M.D. : CONSENT

: ORDER
-----X BPMC #97-85

STATE OF NORTH CAROLINA)
COUNTY OF ALAMANCE) ss.:

STEPHEN BERLINER, M.D., being duly sworn, deposes and says:
I was licensed to practice as a physician in the State of New York, having been issued License No. 138409 by the New York State Education Department.

I am not currently registered with the New York State Education Department to practice as a physician in the State of New York.

I understand that the New York State Board for Professional Medical Conduct has charged me with one Specification of professional misconduct. A copy of the Statement of Charges is annexed hereto, made a part hereof, and marked as Exhibit A.

I do not contest the Factual Allegations and Specification set forth in Exhibit A, in that I did voluntarily surrender my license to the North Carolina Board and thereafter enter into a Consent Order with the North Carolina Board, whereby conditions and/or limitations were placed on my North Carolina medical

license, as set forth in Exhibit A. I understand that the New York State Board for Professional Medical Conduct action against me is based solely on the North Carolina Board's Consent Order, and that no additional misconduct is charged or alleged.

I hereby agree to the penalty of a five year suspension of my license to practice medicine in New York State, which suspension shall be stayed in its entirety conditioned on my full compliance with the Terms of Probation attached hereto as Exhibit B for a period of five years, or as otherwise provided in Term 6 of Exhibit B.

I hereby make this Application to the State Board for Professional Medical Conduct (the Board) and request that it be granted.

I understand that, in the event that this Application is not granted by the Board, nothing contained herein shall be binding upon me or construed to be an admission of any act of misconduct alleged or charged against me, such Application shall not be used against me in any way and shall be kept in strict confidence during the pendency of the professional misconduct disciplinary proceeding; and such denial by the Board shall be made without prejudice to the continuance of any disciplinary proceeding and the final determination by the Board pursuant to the provisions of the Public Health Law.

I agree that, in the event the Board grants my Application, as set forth herein, an order of the Chairperson of the Board shall be issued in accordance with same.

I am making this Application of my own free will and accord and not under duress, compulsion or restraint of any kind or manner.


STEPHEN BERLINER, M.D.
RESPONDENT

Sworn to before me this

day of *July 12*, 1997.


NOTARY PUBLIC

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

-----X

IN THE MATTER : APPLICATION
OF : FOR
STEPHEN BERLINER, M.D. : CONSENT

: ORDER

-----X

The undersigned agree to the attached application of the Respondent and to the proposed penalty based on the terms and conditions thereof.

DATE: 3/17/97


STEPHEN BERLINER, M.D.
Respondent

DATE: 3/18/97


WILFRED T. FRIEDMAN, ESQ.
Attorney for Respondent

DATE: March 20, 1997


CINDY M. FASCIA
ASSOCIATE COUNSEL
Bureau of Professional
Medical Conduct

DATE: March 23 1997

Anne F. Saile

ANNE F. SAILE
DIRECTOR
Office of Professional Medical
Conduct

DATE: April 5, 1997

Patrick F. Carone, M.D.

PATRICK F. CARONE, M.D., M.P.H.
CHAIR
State Board for Professional
Medical Conduct

STATE OF NEW YORK : DEPARTMENT OF HEALTH
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

-----X

IN THE MATTER : STATEMENT
OF : OF
STEPHEN BERLINER, M.D. : CHARGES

-----X

STEPHEN BERLINER, M.D., the Respondent, was authorized to practice medicine in New York State on September 20, 1979 by the issuance of license number 138409 by the New York State Education Department. The Respondent is not currently registered with the New York State Education Department to practice medicine in New York State.

FACTUAL ALLEGATIONS

1. Respondent, on or about August 8, 1996, entered into a Consent Order with the North Carolina Medical Board. Pursuant to the Consent Order, the Board placed conditions and/or limitations on Respondent's license to practice medicine in North Carolina, which limited license was issued pursuant to said Order.
2. Respondent, in said Consent Order, admitted to obtaining Fiorinal with codeine, Fioricet with codeine, and hydrocodone with acetaminophen for his personal use by prescribing them purportedly for his wife. Respondent had surrendered his North Carolina medical license on

March 29, 1996.

3. Respondent and the Board, in said Consent Order, stated that grounds existed for the Board to deny Respondent's application for a license to practice medicine under N.C. Gen. Stat. §§ 90-14(a)(5) [being unable to practice medicine with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of alcohol, drugs, chemicals, or any other type of material or by reason of any physical or mental abnormality] and 90-14(a)(6) [unprofessional conduct, including but not limited to, departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice, or the ethics of the medical profession, irrespective of whether or not a patient is injured thereby, or the committing of any act contrary to honesty, justice or good morals]. However, the Board determined to resolve this matter by said Consent Order.
4. Respondent's conduct which resulted in the disciplinary action by the North Carolina Board would, if committed in New York state, constitute professional misconduct under the laws of New York state, including but not limited to N.Y. Education Law § 6530(7) [practicing the profession of medicine while impaired by alcohol, drugs, physical disability or mental disability]; and/or N.Y. Education Law § 6530(8) [being dependent on or a habitual user of narcotics, barbiturates, amphetamines, hallucinogens, or

other drugs having similar effects]; and/or N.Y. Education Law § 6530(2) [practicing medicine fraudulently] and/or N.Y. Education Law § 6530(20) [conduct in the practice of medicine that evidences moral unfitness to practice medicine].

SPECIFICATION

Respondent is charged with professional misconduct under N.Y. Education Law § 6530(9)(d), by reason of having disciplinary action taken by a duly authorized professional disciplinary agency of another state, where the conduct resulting in the disciplinary action would, if committed in New York state, constitute professional misconduct under the laws of New York state, in that Petitioner charges the facts in Paragraphs 1 through 4.

DATED: *February 5*, 1997
Albany, New York

Peter D. Van Buren
PETER D. VAN BUREN
Deputy Counsel
Bureau of Professional
Medical Conduct

EXHIBIT B

TERMS OF PROBATION

1. Respondent shall conduct himself in all ways in a manner befitting his professional status, and shall conform fully to the moral and professional standards of conduct and obligations imposed by law and by his profession.
2. Respondent shall submit written notification to the New York State Department of Health addressed to the Director, Office of Professional Medical Conduct (OPMC), Hedley Building, 4th Floor, 433 River Street, Troy, New York 12180-2299, said notice is to include a full description of any employment and practice, professional and residential addresses and telephone numbers within or without New York State, and any and all investigations, charges, convictions or disciplinary actions by any local, state or federal agency, institution or facility, within thirty days of each action.
3.
 - a. Respondent shall comply fully with the Consent Order signed August 8, 1996, with the North Carolina Medical Board and any extension or modification thereof.
 - b. Respondent shall provide a written authorization for the North Carolina Medical Board to provide the Director of OPMC with any/all information or documentation as requested by OPMC to enable OPMC to determine whether Respondent is in compliance with the North Carolina Consent Order.
 - c. Respondent shall submit semi-annually a signed Compliance Declaration to the Director of OPMC, which truthfully attests whether Respondent has been in compliance with the North Carolina Consent Order during the declaration period specified.
4. Respondent shall fully cooperate with and respond in a timely manner to requests from OPMC to provide written periodic verification of Respondent's compliance with the terms of this New York Order. Respondent shall personally meet with a person designated by the Director of OPMC as requested by the Director.
5. Respondent shall maintain current registration of his license during the period of probation. Within 90 days of the date of this New York Order, Respondent shall provide proof of current registration to the Director of OPMC at the address set forth above.

6. If Respondent returns to New York State to practice medicine at any time during the five year period of probation, or if Respondent returns to New York State without having successfully completed five consecutive years of sobriety monitoring by the North Carolina PHP or any successor monitor approved by the North Carolina Board, he must comply with the additional terms of probation set forth in Exhibit C for the remainder of the five year period of probation, and/or until he has completed five consecutive years of sobriety monitoring.
7. Respondent shall comply with all terms, conditions, restrictions, limitations and penalties to which he is subject pursuant to this New York Order and shall assume and bear all costs related to compliance. Upon receipt of evidence of noncompliance with, or any violation of these terms, the Director of OPMC and/or the Board may initiate a violation of probation proceeding and/or any such other proceeding against Respondent as may be authorized pursuant to the law.

EXHIBIT C

ADDITIONAL TERMS OF PROBATION IF RESPONDENT RETURNS
TO NEW YORK STATE

1. Respondent, at least 30 days prior to returning to New York State to practice medicine, shall notify the Director of the Office of Professional Medical Conduct, in writing, of both his home and business addresses and telephone numbers. Respondent must provide complete street addresses; a post office box will not suffice.
2. Respondent will remain drug free.
3. Respondent is prohibited from treating or prescribing medications for self or family members.
4. Respondent must notify all his treating physicians of his history of chemical dependency.
5. Respondent must advise the Office of Professional Medical Conduct of any controlled or mood-altering substance given or prescribed by his treating physicians.
6. Respondent will be monitored by a qualified health care professional (sobriety monitor) selected by Respondent, and approved, in writing, by the Director of the Office of Professional Medical Conduct.
7. The sobriety monitor will not be a close personal friend or relative of the Respondent. The sobriety monitor will supervise Respondent's compliance with the terms set forth in this Order.
8. Respondent shall submit the name of a proposed successor within seven (7) days of learning that the approved monitor is no longer willing or able to serve, or has been disapproved by OPMC.
9. Respondent will ensure that the sobriety monitor is familiar with Respondent's history of drug abuse, and with all terms of probation.
10. Respondent will meet with the sobriety monitor on a regular basis, at a frequency subject to approval by the Office of Professional Medical Conduct.
11. Respondent will report for a urine and/or blood drug screen within four (4) hours of being contacted by the monitor.
12. Respondent will submit to random, unannounced observed screens of blood and/or urine for the presence of drugs at the direction of the sobriety monitor who will report to the Office of Professional Medical Conduct immediately if a

test is refused by Respondent, if Respondent does not appear for a test, or a test is positive for any unauthorized substance. This monitoring will be on a random, seven-day a week, twenty four hour a day basis.

13. Respondent will authorize the sobriety monitor to immediately report to the Office of Professional Medical Conduct any deviation from compliance with the terms of probation.
14. Respondent will authorize the sobriety monitor to submit to the Office of Professional Medical Conduct quarterly reports certifying Respondent's compliance with the terms of probation. Respondent's failure to comply with any of the terms must be immediately reported to the Office of Professional Medical Conduct. The reports will include the results of all body fluid test for drugs performed during that quarter, with copies of any toxicology reports. All urines must be forensically valid. Respondent shall cause the sobriety monitor to submit such reports in a timely manner.
15. Respondent shall practice medicine only when supervised in his medical practice. The practice supervisor shall be on-site to all locations, unless determined otherwise by the Director of OPMC. Respondent shall not practice medicine until a practice supervisor has been approved, in writing, by the Director of OPMC. Respondent shall ensure that the practice supervisor is in a position to regularly observe and assess Respondent's medical practice. Respondent shall cause the practice supervisor to report within 24 hours any suspected impairment, inappropriate behavior, questionable medical practice or possible misconduct to OPMC. The practice supervisor shall not be a relative or close personal friend of Respondent.
16. Respondent shall cause the practice supervisor to review Respondent's practice regarding the prescribing, administering, dispensing, inventorying, and disposal of controlled substances.
17. Respondent shall cause the practice supervisor to submit quarterly reports to OPMC regarding the quality of Respondent's medical practice, including the evaluation and treatment of patients, physical and mental condition, time and attendance or any unexplained absences from work, prescribing practices, and compliance or failure to comply with any term of probation. Respondent shall cause the practice supervisor to submit such reports in a timely manner.
18. Respondent shall comply with any request from OPMC to obtain an independent psychiatric/chemical dependency evaluation by a health care professional proposed by the Respondent and approved, in writing, by the Director of OPMC.

19. Respondent shall bear the costs, if any, of his sobriety monitoring and practice monitoring.